

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
NEW MEXICO STATE ENGINEER,

Plaintiff,

69cv07941-MV/LFG

vs.
SYSTEM

RIO CHAMA STREAM

ROMAN ARAGON, *et al.*,

Defendants.

**RESPONSE BY RIO CHAMA ACEQUIA ASSOCIATION
TO MOTION REQUESTING SENIOR PRIORITY CALL
BY ACEQUIA DE CHAMITA SPOKESMAN, DAVID ORTIZ**

COMES NOW the Rio Chama Acequia Association, by and through their attorney, Daniel Sanchez, Esq., and pursuant to the *Order* filed herein on July 31, 2013 (Document No. 10937), files this response to the *Motion Requesting Senior Priority Call by the Acequia de Chamita Paricantes by Acequia Spokesman, David Ortiz* (Document No. 10933) (“Motion”).

David Ortiz, as spokesman for the Acequia de Chamita, has requested that the water master for Section 1 of the Rio Chama restrict junior diversions above and

below the Abiquiu Dam. This Motion primarily impacts and affects the ditches of the Rio Chama Acequia Association. David Ortiz as spokesman for the Acequia de Chamita does not have nor possesses the authority to request a call on behalf of the Acequia de Chamita. He is not an elected official of the Acequia de Chamita Acequia Commission and only they can make that call. *Watermaster's Rules and Regulations* (Document No. 1949). David Ortiz cannot represent the Acequia de Chamita, especially if he is not licensed to practice law in Federal Court.

Furthermore, there is no need for the restriction of junior diversions for the benefit of senior water rights under the Acequia de Chamita. The water rights owners under the Acequia de Chamita have suffered no actual or impending harm by junior diversions in the stream system in Section 1 of the Rio Chama. In fact, all of the other acequias that irrigate off the Rio Chama in Section 1 that are part of the Rio Chama Acequia Association have shut off their water for 24 hour periods except the Acequia de Chamita. They have refused to cooperate in this effort with all other acequias. All other acequias have reduced their water intake up to one-half for an entire month, in an effort to share the water with their neighbors, except Acequia de Chamita who refused to cooperate with the other acequias.

Acequia de Chamita has received their allotted amount of water during the irrigation season and and continue to irrigate at their full allotted amount. They

have not shut off nor reduced their intake. They have refused to cooperate with the other Rio Chama Acequia Association member acequias. The Motion itself fails to allege any facts that would warrant a priority call. The Motion does not allege that the Acequia de Chamita has experienced any water shortages, nor does it include any facts that would support an inference of water shortage, impending or actual.

The Rio Chama Acequia Association has had a history and continues to have a strong commitment to cooperate and share the water and attendant shortages so there is no need to administer a priority call. The Acequias have cooperated and have exhibited to the New Mexico Interstate Stream Commission and the Office of the New Mexico State Engineer that they can work together and manage the water usage without resorting to priority call or other administration.

The Rio Chama Acequia Association concurs with the factual statements, conclusions and legal statements asserted by the State of New Mexico in their *Response by State of New Mexico to Motion Requesting Senior Priority Call by Acequia de Chamita Spokesman, David Ortiz*. (Document No. 10940) and incorporates them herein by reference.

WHEREFORE, the Rio Chama Acequia Association having responded to the *Motion Requesting Senior Priority Call by Acequia de Chamita Spokesman, David*

Ortiz,(Doc. No. 10933) as above stated and because the water users under the Acequia de Chamita have not suffered any actual or impending impairment or harm to their senior water rights, the RCAA, hereby requests that the Court deny the request to restrict diversions of junior water rights owners as made by Mr. David Ortiz and such other and further relief as deemed just and reasonable by this Court.

Respectfully Submitted

/S/Daniel Sanchez
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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of August, 2013, I filed the foregoing electronically through the CM/ECF system which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and serve the following non-CM/ECF participant in the manner indicated.

Via first class mail, postage prepaid and addressed as follow:P

Mr. David Ortiz
P.O. Box 1082
San Juan Pueblo, NM 87566

And by e-mail to the following address:

davidortiz@windstream.net

/s/Daniel Sanchez

Daniel Sanchez